

Terms and Conditions

This document published by Regal Software details the Terms and Conditions for managed servers and web hosting from Regal Software. The latest version can be obtained by sending an email to server@regalsoftware.co.uk for an electronic hard copy.

This Agreement (“Agreement”) is between Regal Software and the customers of our servers and related services.

Definitions in this Agreement

1. “Regal Software”, “the company”, “us” or “we” means Regal Software, Regal Software is a trading name of David A. King;
2. “You” and “your” means you, the person entering into this agreement with Regal Software;
3. “Hosting Supplier” means Real Hosts Limited, a registered company in England and Wales with registration number 05694535;
4. “Charges” means any or all charges to you, whether for Internet Bandwidth, equipment rental, space rental and/or Customer Support and any other services or goods you wish to acquire from us;
5. “Customer Support” means supported provided by the Regal Software Staff and authorised agents on behalf of Regal Software;
6. “the Internet” means the global data network comprising of interconnected networks using TCP/IP;
7. “Service” means the service provided by Regal Software whereby we manage a virtual machine for you running on hardware and with connectivity provided by our Hosting Supplier and, where applicable, any services and facilities provided by Regal Software for you in connection with the Service;
8. “Equipment” means any computer hardware including systems, components and cables supplied, leased or rented to you by Regal Software;
9. “Sites” means any web sites associated with Regal Software or the Service;
10. “Data Protection Legislation” means, for such time as they are in force in England and Wales, the Data Protection Act 1998, the GDPR and all related legislation which may supplement, amend, implement or replace them and

which relates to the protection of individual's rights in their personal data and the protection of their privacy; and

11. "GDPR" means Regulation (EU) 2016/679 and/or such legislation as may give effect to its terms in England and Wales.

1. Conditions of Use

- i) Your access to the Service is subject at all times to our right to terminate under the provisions of clause 7 below;
- ii) Regal Software will under no circumstances be liable for any loss of data or consequential losses incurred due to a connectivity or systems failure.

2. The Service

Any suggested date of connection or commencement of any Service provided by us is not binding upon us and we give no undertaking whatsoever that we will connect the Equipment or enable any Service on, or by, a certain date and/or time, and we will not be liable to you for any delay in connecting the Equipment or Service. We are not obliged to connect equipment or commence service if:

- i) You do not qualify under the current credit policy Regal Software has in place; or
- ii) You are prohibited from being a Customer due to prior abuse of our Services.

In either of these events, this Agreement will be terminated, and you will not be liable for any payments due under this Agreement. We will refund without delay any currency paid in advance to us by you relating to this Agreement.

3. Your Obligations

You will:

- i) Pay the monthly charges in advance;
- ii) Rectify without delay any malfunction or other problem with any Equipment that we, or our Hosting Supplier, hosts for you upon notification from a member of Regal Software Staff or Regal Software authorised agents. If you are unable to correct the problem within 12 hours you agree that Regal Software may suspend the Service, or may charge for an Engineer to repair the Equipment at our standard advertised rate.

- iii) At all times comply with Data Protection Legislation, including without limitation the obligations set out in the Data Protection Schedule.

You will not:

- i) Use our Service to commit or encourage a criminal offence;
- ii) Use our Service to store, send proactively, receive, upload, download, use or re-use any information or material which we believe may be offensive, abusive, indecent, defamatory, obscene or menacing, or in breach of confidence, copyright, privacy or any other rights;
- iii) Use our Service to insert or knowingly or recklessly transmit or distribute a virus or worm;
- iv) Use our Service to send or provide any unsolicited advertising or other promotional material, commonly referred to as “spam” by electronic mail or by any other electronic means;
- v) Use our Service to send electronic mail or any other type of electronic message with intention or result of affecting the performance or functionality of any computer facilities;
- vi) Employ a misleading electronic mail address or name or falsify information in the header, footer, return path or any part of any communication, including without limitation any electronic mail transmitted through our Service;
- vii) Use any IP (Internet Protocol) addresses which are not assigned to you by us for use with our Service;
- viii) Hack, or gain access by unauthorised means to any aspect or system of our Service;
- ix) Circumvent, or attempt to seek to circumvent, any of our security safeguards or monitoring systems;
- x) Knowingly corrupt data;
- xi) Use our Service to cause annoyance, inconvenience or needless anxiety to any third party person or organisation;
- xii) Hold us or any of our third party contractors liable in relation to accuracy, reliability, availability and performance of resources accessed through the Internet which, you acknowledge, are beyond their control and are not in any way warranted or supported by us or our third party contractors;

- xiii) Use our Service in a way that does not comply with the terms of any legislation or any license applicable to you or what that is in any way unlawful, immoral or unethical by definition of Regal Software;
- xiv) Permit any third party to do any of the above.

4. Obligations of Regal Software

We will:

- i) Maintain your system configuration to ensure that your server software is kept up to date and all relevant security patches are installed;
- ii) From time to time schedule maintenance periods where communication may be lost or your server restarted. Wherever possible we will provide advanced notification of such planned work by electronic mail;
- iii) Make every effort to fix any problem that arises in our systems causing outage in the least possible time;
- iv) Comply at all times with Data Protection Legislation, and the obligations set out in the Data Protection Schedule.

We will not:

- i) Provide physical access to the hardware in the Data Centre;

5. Payment

For any and all invoices payable to Regal Software you will:

- i) Pay with cash, cheque, or bank transfer within 14 days of the date of the invoice;
- ii) Ensure that there are sufficient funds available in your account to pay for services charged by Regal Software to you;
- iii) Refund to Regal Software the cost of collecting outstanding payments owed or charges incurred due to failed or referred transaction(s) including but not limited to stopped payments and bounced cheques.

Regal Software:

- i) will not issue paper business invoices but we will provide invoices by electronic mail to the e-mail address that you register with us;

- ii) Reserves the right to increase or decrease fees. Details of any changes in our fees will be communicated to you at least 1 month in advance post by electronic mail. Your right to cancel the Service shall apply, as set out in clause 6;
- iii) May exercise its statutory right to interest under the Late Payment of Commercial Debts (Interest) Act 1998 for any invoices that are not paid by their due date.

6. Minimum Term, Cancellations and Refunds

Please be advised that once you use the Service in any way, unless agreed in writing otherwise, you will not have the right under Regulation 10 of the Consumer Protection (Distance Selling) Regulations 2000 to cancel this Agreement within 7 days of entering into it as if the Agreement has not been made.

This Agreement has a minimum period (“initial term”) of 12 (“twelve”) months. During this initial period you may not cancel this Agreement without paying all fees due for the period, regardless of whether invoices for these charges have been raised or not. Any account cancellation after the initial term must be notified (“Notification”) to Regal Software by telephone on the normal customer support telephone number, or, by electronic mail to server@regalsoftware.co.uk.

You acknowledge that cancellation of your account shall only be valid if notified to Regal Software in accordance with above provisions. Any and all cancellations of accounts shall be effective after a period of 30 (“thirty”) days from the first working day on which Regal Software receives the Notification (“Effective Date of Cancellation”). Regal Software will notify you by electronic mail of this date once your request has been processed.

Effect of Account Cancellation determines that you are responsible for all Charges relating to your account up until the Effective Date of Cancellation and the Initial Term. Any data, configuration and DNS entries will be deleted and we regret to inform you that this data will be unable to retrieve. Regal Software will reimburse you for any day’s service which have been paid for but are no longer required. This is calculated as the time period between the Effective Date of Cancellation and your next billing date, provided that the account is not in arrears.

7. Termination

Regal Software may terminate this agreement and the Service or may suspend all or a part of the Service by immediate notice if:

- i) You are in breach of any of the terms of this Agreement;
- ii) You become or are deemed insolvent, have a receiver, manager, administrator or administrative receiver appointed in respect of the

whole or any part of your assets or business, make any composition or arrangement with its creditors, or take or suffer any similar action in consequence of debt, or an order or resolution is made for your dissolution or liquidation (other than for the purpose of solvent amalgamation or reconstruction).

Regal Software may otherwise terminate this Agreement without notice if it deems, in its sole discretion, such termination necessary, provided that Regal Software will reimburse you upon such termination of account, for any day's service that you have already paid for in advance but cannot use. This is calculated as the number of days between the date of termination of the service and your next billing date, provided that the account is not already in arrears. Where data has been deleted or barred, we will not store or reserve either your data or your DNS names.

Upon termination, any data held on equipment provided by Regal Software will be deleted and regret to inform you, that this data will not be retrievable once this has taken place.

8. Service Level

Regal Software makes certain commitments as to the level of service that will be provided to you in connection with your account. In the event that, for any reason, Regal Software is not able to meet those terms of the service level guarantee our liability shall be limited to the total amount of fees prepaid by you, excluding any setup fees paid.

9. No Warranty

Regal Software is providing the Service on an "as is" basis and makes no representations or warranties of any kind with respect to the reliability of the Service of fitness for a particular purpose and disclaims such representations and warranties. We will not be responsible for any damages your business may suffer, including data loss, due to any shortcomings or failures of the Service, or errors caused by Regal Software or its employees. Subject to clause 10.I below, Regal Software's maximum aggregate liability under this agreement whether arising from negligence, breach of contract or otherwise shall be limited in respect of one incident or series of two or more related incidents to an amount equal to the cover provided to Regal Software under its policies of insurance. The cover provided by our policies of insurance shall not be less than £1million for public liability claims. Regal Software is not liable to you either in contract, tort (including negligence) or otherwise for the acts or omissions of other services (including domain name registration authorities) or for faults or failures in their equipment. Regal Software reserves the rights to revise its policies at any time.

10. Indemnity

- i) You acknowledge that you are solely responsible for the use to which you put the Service, and all information, data and results you obtain from using it and that all warranties, conditions, undertakings, representations and

terms whether expressed or implied, statutory or otherwise are hereby excluded to the fullest extent permitted by law.

- ii) Regal Software hereby disclaim and exclude to the fullest extent permitted by law all liability for any loss or damage whatsoever and howsoever incurred including any consequential, special, secondary or indirect loss or damage or any damage to goodwill or profits or any loss of anticipated savings incurred by you, whether arising in tort, contract, equity or otherwise, and arising out of or in relation to or in connection with your access to or use of or inability to use the Sites, the Service or any software or content supplied to you in connection with the Service, or in connection with any failure of performance, error, omission, interruption, defect, delay in operation or transmission, computer virus or line or system failure even if Regal Software or its employees or agents are advised of the possibility of such damages, losses or expenses.
- iii) You will indemnify and hold harmless Regal Software from and against all losses, liabilities, damages, costs, reasonable expenses, actions and claims suffered or incurred by Regal Software and/or its employees and/or authorized agents arising out of or in connection with any breach by you of these Terms and Conditions.

11. Invalidity

If any part of our Terms and Conditions is unenforceable (including any provision in which we exclude our liability to you) the enforceability of any other part of these conditions will not be affected. Regal Software shall endeavour to replace any invalid or unenforceable provisions in such a way that the new clause shall differ as little as possible from the scope and intended purpose of the invalid or unenforceable provisions taking into account the object and purpose of this Agreement.

12. Governing Law

These terms and conditions shall be governed by and interpreted in accordance with English law and the courts of England and Wales shall have jurisdiction to resolve any disputes between us.

13. Notices

Notices (if any) given under this agreement shall be delivered by hand or sent by prepaid first class post or electronic mail in the case of either party. Electronic mail shall be deemed to be delivered when it is sent.

14. Entire Agreement

These terms and conditions along with the Internet Service Agreement and the Data Protection Schedule set out the whole of our Agreement relating to our supply of the

Service. They cannot be varied except in writing by David A. King, the owner of Regal Software. In particular nothing said by any sales person on behalf of Regal Software should be understood as a variation of these Terms and Conditions or an authorized representation about the Service or the nature and quality of items displayed thereon. Regal Software shall have no liability for any such representation being untrue or misleading.

DATA PROTECTION SCHEDULE

1. Data Protection

1.1. For the purpose of this Schedule, in addition to the definitions set out in the main body of this Agreement, the following terms shall have the following meanings:

1.1.1. **Data Controller:** shall have the meaning of 'data controller' set out in section 1(1) of the DPA and, from the time of its implementation into law in England and Wales the meaning set out in Article 4(7) of the GDPR or the equivalent clause of such legislation which may implement the same in the UK.

1.1.2. **Data Processor:** shall have the meaning of 'data processor' set out in section 1(1) of the DPA and, from the time of its implementation into law in England and Wales the meaning of 'processor' set out in Article 4(8) of the GDPR or the equivalent clause of such legislation which may implement the same in the UK.

1.1.3. **Data Subject:** an individual who is the subject of Personal Data.

1.1.4. **DPA:** means the Data Protection Act 1998.

1.1.5. **Personal Data:** has the meaning set out in section 1(1) of the DPA and, from the time of its implementation into law in England and Wales the meaning set out in Article 4(1) of the GDPR, and for the purposes of this Agreement means Personal Data provided by one party to this Agreement to the other.

1.1.6. **Processing and Process:** have the meaning set out in section 1(1) of the DPA.

2. Processor's obligations

2.1. You agree with Regal Software that for the Purposes of Data Protection Legislation that You shall be the Data Controller and Regal Software shall be the Data Processor in respect of any Personal Data which is transferred from You to Regal Software under the terms of this Agreement.

2.2. As a Data Processor Regal Software shall Process the Personal Data only to the extent necessary to perform its obligations pursuant to this Agreement and/or in accordance with your instructions from time to time, and shall not Process the Personal Data for any purpose other than enabling it to fulfil its obligations pursuant to this Agreement or to perform any other activity which may be authorised by You from time to time.

2.3. Where a party is a Data Processor pursuant to this Agreement it shall take steps to ensure that its employees or agents are informed of their obligations in relation to Personal Data that it collects, transfers or holds.

3. Data Protection Warranties

3.1. Each party to this Agreement warrants to the other that it will Process the other's Personal Data in compliance with all applicable Data Protection Legislation.

3.2. Where a party to this Agreement becomes a Data Processor pursuant to it, it warrants that in relation to the Personal Data in respect of which it is a Data Processor that:

3.2.1. having regard to the reasonably available state of the art of technological development, the nature of the Processing in question, the cost of implementation, and the material risk to the rights of affected Data Subjects, the Data Processor shall take appropriate technical and organisational measures to secure relevant Personal Data against the unauthorised or unlawful Processing and against the accidental loss or destruction;

3.2.2. it will not transfer any Personal Data outside of the European Economic Area without the prior authorisation of the Data Controller or as is necessary for the performance of its obligations hereunder;

3.2.3. it will assist the Data Controller, insofar as reasonably possible, in responding to any requests made by any relevant Data Subject which concern the exercise of that Data Subject's rights under the GDPR, subject to the Data Controller reimbursing it for the cost of the same;

3.2.4. it will report to the Data Controller any suspected data breach concerning the Personal Data which comes to its attention and shall provide reasonable assistance to the Data Controller in informing the relevant regulator and/or affected Data Subjects, subject always to the Data Controller reimbursing it for the cost of the same; and

3.2.5. it will, on request, take reasonable steps to demonstrate to the Data Controller, to the extent that is reasonable given the nature of the Processing in question, that it complies with Data Protection Legislation.

4. Indemnity

4.1. Each party to this Agreement agrees to indemnify and keep indemnified and defend at its own expense the other party against all costs, claims, damages or expenses incurred by the other party or for which the other party may become liable due to any failure by the first party or its employees or agents to comply with

any of its obligations pursuant to sections 2 and 3 of this Schedule. In order to avail itself of this indemnity the claiming party must: promptly notify the indemnifier of any relevant claim of which the indemnified party becomes aware; not make any admission of liability or offer to settle in respect of any relevant claim without the prior written permission of the indemnifier; grant the indemnifier full control of all relevant proceedings on request, and; provide the indemnifier with such assistance in dealing with such claims as it may reasonably request.

- 4.2. The parties acknowledge that to the extent that either party is a Data Processor pursuant to this Agreement it will be reliant on the other, the Data Controller, for direction as to the extent to which the Data Processor is entitled to use and Process the relevant Personal Data. Consequently, the Data Processor will not be liable to the Data Controller for any loss or damage which arises from any claim brought by a Data Subject or any fine levied by any relevant regulatory authority which results from any action or omission by the Data Processor, to the extent that such action or omission resulted directly from the Data Controller's instructions.